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SERVICE DATE – LATE RELEASE JUNE 8, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-853 (Sub-No. 3X)

KANSAS & OKLAHOMA RAILROAD, INC.—ABANDONMENT
EXEMPTION—IN RICE COUNTY, KS

Decided: June 8, 2006

Kansas & Oklahoma Railroad, Inc. (K&O) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 6-mile line of railroad between milepost 85.0, at Chase, and milepost 91.0 at Silica, in Rice County, KS. Notice of the exemption was served and published in the Federal Register on May 10, 2006 (71 FR 27314). The exemption is scheduled to become effective on June 9, 2006.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on May 15, 2006. In the EA, SEA states that the U.S. Environmental Protection Agency, Region 7, submitted comments stating that, depending on the extent of soil disturbance caused by salvage activities, a National Pollutant Discharge Elimination System (NPDES) stormwater permit could be required from the Kansas Department of Health and Environment (KDHE). Therefore, to ensure appropriate consideration of the NPDES requirements, SEA recommends that, prior to commencement of any salvage activities, K&O be required to consult with KDHE and comply with the reasonable NPDES requirements.

SEA also states that the National Geodetic Survey (NGS) has identified three geodetic station markers that may be located in the area of the proposed abandonment and requests 90 days' notification in advance of salvage activities to plan for their relocation. Therefore, SEA recommends that K&O be required to notify NGS at least 90 days prior to salvage activities so that plans can be made for the relocation of the identified geodetic station markers.

Comments to the EA were due by May 30, 2006. SEA received a comment from the Kansas Bureau of Waste Management (KBWM) expressing concern regarding the proper disposal of railroad ties during salvage activities. KBWM requested that a condition be imposed requiring K&O to comply with state statutes and regulations concerning solid waste disposal so that KBWM would be able to document the proper disposal of railroad ties. Therefore, in order to address the concerns of KBWM, SEA recommends that K&O consult with the KBWM (Mr. Bob Medina, Environmental Scientist (785) 296-6617) prior to beginning salvage activities regarding the proper disposal of railroad ties during salvage activities and report the results of this consultation to SEA in writing.

The recommended conditions will be imposed. As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proceeding is reopened.
2. Upon reconsideration, the exemption of the abandonment of the rail line described above is subject to the conditions that K&O: (1) notify NGS at least 90 days prior to beginning salvage activities in order to plan for the possible relocation of the identified geodetic station markers; (2) to ensure appropriate consideration of the NPDES requirements, prior to the commencement of any salvage activities, consult with KDHE and comply with the reasonable NPDES requirements; and (3) prior to the commencement of any salvage activities, consult with KBWM (Mr. Bob Medina, Environmental Scientist at (785) 296-6617) regarding the proper disposal of railroad ties during salvage activities and report the results of this consultation to SEA in writing.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary